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5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**  
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8 RICHARD L. STROHMETZ,

9 *Petitioner,*

10 vs.

11 CHARLOTTE COLLINS,,  
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13 *Respondent.*

2:13-cv-02088-KJD-CWH

ORDER

14 Petitioner has filed a habeas petition under 28 U.S.C. § 2241 without properly  
15 commencing the action by paying the filing fee or filing a pauper application.

16 It does not appear that a dismissal without prejudice will result in a promptly filed new  
17 action being untimely or otherwise cause substantial prejudice. Petitioner is a federal pretrial  
18 detainee, and his allegations pertain solely to the quality of the medical care currently at the  
19 detention center. Petitioner maintains that certain medical tests should be conducted, and  
20 he seeks both injunctive relief and monetary damages. Even if these claims were properly  
21 presented in a habeas action, there is no limitations period applicable to a § 2241 petition.  
22 The claims in any event do not appear to be cognizable in a habeas action under § 2241 as  
23 opposed to a civil rights action, which would be subject to a two-year limitations period. A  
24 detainee may not avoid the fee payment requirements of the Prison Litigation Reform Act  
25 (PLRA) by presenting claims regarding conditions of confinement instead in a habeas petition.

26 Petitioner thus will sustain no prejudice of substance from the dismissal of this action  
27 without prejudice. The present improperly-commenced action therefore will be dismissed  
28 without prejudice to the filing of a new action.

1 IT THEREFORE IS ORDERED that this action is DISMISSED without prejudice to the  
2 filing of a new petition in a new action accompanied by either the required filing fee or a  
3 properly completed application to proceed *in forma pauperis*.

4 IT FURTHER IS ORDERED that a certificate of appealability is DENIED. Jurists of  
5 reason would not find the dismissal of this improperly-commenced action without prejudice  
6 to be debatable or wrong. The current dismissal will not result in a promptly-filed new action  
7 being untimely or otherwise cause substantial prejudice.

8 IT FURTHER IS ORDERED that the Clerk shall send petitioner two copies each of an  
9 application form to proceed *in forma pauperis* for incarcerated persons and a civil rights  
10 complaint form, one copy of the instructions for each form, and a copy of the papers that he  
11 submitted in this action.

12 The Clerk of Court shall enter final judgment accordingly, dismissing this action without  
13 prejudice.

14 DATED: November 15, 2013

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18 KENT J. DAWSON  
19 United States District Judge  
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